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HUMAN RIGHTS COMMITTEE

Sixty-seventh session

SUMMARY RECORD OF THE 1783rd MEETING

Held at the Palais des Nations, Geneva,
on Monday, 18 October 1999, at 10 a.m.

Chairperson: Ms. MEDINA QUIROGA

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GE.99-44766 (E)

The meeting was called to order at 10.35 a.m.

OPENING OF THE SESSION BY THE CHAIRPERSON (item 1 of the provisional agenda)

1. The CHAIRPERSON declared open the sixty-seventh session of the Human Rights Committee. She welcomed all the members of the Committee and Ms. Mary Robinson, United Nations High Commissioner for Human Rights.

SOLEMN DECLARATION BY THE NEWLY ELECTED MEMBER OF THE COMMITTEE (item 2 of the provisional agenda)

2. Mr. Henkin made a solemn declaration in accordance with article 38 of the Covenant and rule 16 of the rules of procedure.

STATEMENT BY THE HIGH COMMISSIONER FOR HUMAN RIGHTS

3. Ms. ROBINSON (High Commissioner for Human Rights) welcomed Mr. Henkin to the Committee.

4. The period since the Committee's most recent session had been an extremely busy one. Along with regular sessions of the Sub-Commission on the Promotion and Protection of Human Rights and the Committee on the Elimination of Racial Discrimination, a special session of the Commission on Human Rights - only the fourth in its history - had been held. That event reflected the gravity with which the international community had regarded the clear evidence of systematic and widespread violations of human rights in East Timor. The Commission's resolution on the subject (1999/S-4/1) requested the Secretary-General to establish an international commission of inquiry into human rights violations in East Timor and directed the commission to work in cooperation with a fact-finding body already appointed by Indonesia's national human rights commission. At the Secretary-General's request, she had set up the commission, and she now wished to inform the Committee of the names of its members. It was chaired by Ms. Sonia Picado of Costa Rica, and its other members were Ms. Judith Sefi Attah of Nigeria, Mr. A.M. Ahmadi of India, Mr. Mari Kapi of Papua New Guinea and Ms. Sabine Leutheusser-Schnarrenberger of Germany.

5. During the twenty-second session of the Committee on the Rights of the Child, a special two-day event had been organized jointly by the Committee and the Office of the High Commissioner to mark the tenth anniversary of the adoption of the Convention on the Rights of the Child. The event had been a success in terms of taking stock of what had been achieved and looking ahead to the future.

6. At its sixty-seventh session, the Human Rights Committee would be examining six State party reports. The consideration of two of the six reports would attract particular attention because of historic circumstances surrounding the territories concerned: the final report of Portugal on Macau, which would revert to Chinese sovereignty at the end of the year, and the first report submitted by the People's Republic of China on the Hong Kong Special Administrative Region. She looked forward to a constructive dialogue with the Chinese delegation, which had already submitted a similar report to

the Committee on the Elimination of Discrimination against Women. She hoped that, following China's signature of both Covenants in 1998, it would soon ratify them.

7. She commended the Committee for its continuing efforts to improve its working methods, in particular through its new guidelines and the decision on the early adoption of lists of issues. Adoption of the list three months in advance gave the State party time to prepare meaningful answers and thereby enhanced the quality of the dialogue. Her Office, for its part, was doing its best to speed up the production of State party reports, aiming to have them issued in the relevant languages within six months of their submission.

8. The backlog in communications under the Optional Protocol, particularly those in Russian, was being addressed with the recruitment by her Office of an additional staff member who had good knowledge of Russian. An effort was also being made to respond to the Committee's long-term needs in human resources. Two additional posts were being sought for the Office for the biennium 2000-2001 so as to keep up with the Committee's increased workload. Funding was also being sought to ensure at least one mission a year by the Committee's Special Rapporteur for Follow-up on Views. The credibility of the Optional Protocol procedure would be enhanced considerably by the implementation of the Committee's Views, and she was convinced that the Special Rapporteur would be able to help States parties to overcome obstacles that had delayed implementation. Outside funding was expected to be secured in order to continue publication of the Committee's official records, which had been halted in 1993.

9. Her Office placed great emphasis on securing adequate support, not only for the Committee but for all the human rights treaty monitoring bodies. Much had been accomplished in the field of human rights over the past 50 years, and the Committee was central to those accomplishments, but it could not work at full capacity unless it had adequate financial and human resources. She would be following its work with great interest in the new few weeks and wished it every success.

10. The CHAIRPERSON thanked the High Commissioner for her interest in the Committee's work. The serious problems in various parts of the world today demonstrated that political considerations often predominated over human rights concerns. Hence the importance of the Committee, which stood for the rule of law and worked to help victims of repression and abuse to use the law as an instrument of their own defence. It was gratifying for the Committee to know that efforts were under way to give it the means to do its work properly.

The meeting was suspended at 10.50 a.m. and resumed at 10.55 a.m.

ADOPTION OF THE AGENDA (item 3 of the provisional agenda) (CCPR/C/139)

11. The agenda was adopted.

ORGANIZATIONAL AND OTHER MATTERS (agenda item 4)

12. The CHAIRPERSON invited the Committee to consider the proposed programme of work, which was before it in an informal document.

13. Ms. EDELENBOS (Office of the High Commissioner for Human Rights), replying to a question by Mr. KRETZMER, said that the Working Group on Communications had adopted only three recommendations concerning communications under the Optional Protocol for consideration at the current session. Two cases remained for consideration from the previous session.

14. Mr. de ZAYAS (Secretary of the Committee) provided information on the availability in the various languages of the draft general comment on article 12 of the Covenant and of the draft guidelines.

15. The proposed programme of work was adopted.

16. The CHAIRPERSON invited the Chairman/Rapporteur of the Working Group on Communications to make an oral report.

17. Lord COLVILLE (Chairman/Rapporteur of the Working Group on Communications) said the Working Group had had a very constructive week of work on the lists of issues and on communications. Material for its discussions, some of which was confidential and had to be handled accordingly, had been provided by representatives of three international organizations and three non-governmental organizations (NGOs). Since 15 to 20 NGOs had been invited to participate, the limited response was disappointing. Even worse, none of the NGOs had yet realized that the lists of issues were being prepared one session in advance. It was to be hoped that that serious misunderstanding of the Committee's new approach would be rectified soon.

18. Another innovation in the work on the lists of issues was that the Working Group had had the opportunity to discuss the lists with secretariat officials responsible for the countries concerned. The guidance of those highly qualified specialists had been found most useful, and it was to be hoped that such cooperation would become standard procedure.

19. The priority work on lists of issues had been on the Hong Kong Special Administrative Region and Macau, and those lists were ready for discussion. Lists had also been prepared for all the countries whose reports were scheduled for consideration at the Committee's sixty-eighth session (March 2000). The High Commissioner had mentioned the advantages of advance work on the lists, but there were some disadvantages as well. Some of the countries for which lists had been prepared would not actually attend the next session. In countries where the political situation was in a state of flux, significant changes might occur in the period before the Committee addressed the issues mentioned in the lists. The Bureau might wish to reflect on that matter. The lists of issues were as up to date as possible, even though some of the State party reports were very outdated - in one case describing the country's situation only up to 1987. He expressed thanks to all the country rapporteurs, who had prepared the lists in a thorough manner that should facilitate the Committee's consideration of the reports.

20. In addition to the preliminary list of issues to be taken up at the sixty-eighth session in connection with the consideration of the second periodic report of the Congo, the Working Group had decided, in view of the fluid political situation in that country, to draw up a second, considerably longer list of questions to serve as a basis for oral questions by Committee

members. The second list would be circulated to members as an informal document. The Working Group hoped that its initiative in that respect would prove helpful.

21. Lastly, upon reaching the stage of approval of the provisional list of issues in connection with the consideration of the addendum to the fourth report of the United Kingdom (Jersey, Guernsey, Isle of Man), the Working Group had learned that the fifth periodic report of the United Kingdom had just been received and was in the process of translation. The Working Group had nevertheless decided to complete the provisional list of issues on the basis of the fourth report - which, of course, was by now extremely out of date - subject to possible modifications in the light of information supplied in the fifth report.

22. Turning to the question of communications under the Optional Protocol, he welcomed the High Commissioner's announcement of the appointment of a Russian-speaker to the Committee secretariat and the promise of more staff. Pending those developments the Working Group had, as already stated, been able to deal with only three communications. The draft Views on one of the cases could not be finalized as they would depend on the outcome of another case which the Committee had begun to consider at the previous session. The other two were comparatively straightforward and the draft Views on them recommended by the Working Group would be circulated in due course.

23. The CHAIRPERSON said that the idea of preparing an unofficial second list of questions in the case of countries with a particularly complex or unstable human rights situation was to be welcomed.

24. She informed members that after the end of the previous session she had received an invitation from the Government of China to visit the Hong Kong Special Administrative Region prior to the present session. In thanking the Government for its invitation, she had explained that she had been unable to make the visit at such short notice but would be happy to consider visiting Hong Kong at a later date. Copies of the invitation and of her reply would be distributed to members.

25. Ms. EVATT said that members of the Working Group which had been drafting the list of issues to be taken up in connection with reports scheduled for consideration at the sixty-eighth session had been concerned as to whether or not certain countries, notably Congo, Peru and Venezuela, would in fact be represented. She wondered whether further efforts should not be made to obtain confirmation from those countries that they would attend, before proceeding with work on the lists.

26. The CHAIRPERSON said that those States parties had been informed on 19 August that their reports were scheduled for consideration at the sixty-eighth session and that the relevant lists of issues were to be drawn up the previous October, but no replies had yet been received.

27. Mr. BHAGWATI said that despite the uncertainty as to whether or not certain States parties would attend, the Committee should proceed on the basis that they would, since the draft lists of issues had already been prepared and would need to be finalized at the current session.

28. Mr. AMOR suggested that it would be useful if the Chairperson, before deciding on the date for consideration of a State party's report, could contact the State concerned to see whether the situation was such that a postponement might be necessary. Once a date had been fixed, the State would, of course, have to make the necessary effort to attend. The Committee should take a firm stand on the matter: it could not operate in a situation where States pleased themselves whether or not they would appear and made last-minute cancellations. The Committee should make clear to States parties that they had certain obligations which they could not evade.

29. Mr. de ZAYAS (Secretary of the Committee), in reply to a question from the Chairperson, said that about two weeks earlier a note verbale had been received from the Peruvian Mission requesting that Peru's fourth periodic report should not be taken up in March 2000 on the grounds that the persons best qualified to answer the Committee's questions would not be available at that time. He had contacted the Mission to express the Committee's wish that, if at all possible, Peru should make the effort to be represented, but as yet he had received no response.

30. The CHAIRPERSON said the fact that members of the Peruvian Mission in Geneva would not be available in March 2000 ought not to affect the Committee: it was more important that a delegation from the country itself should attend.

31. Mr. AMOR pointed out that any State could find reasons of an internal nature for not coming to Geneva to discuss its report: to set a precedent in that regard could be very dangerous. He urged the Committee to call on Peru to show a more cooperative attitude, so that work could proceed on the basis of the schedule already agreed.

32. The CHAIRPERSON said she took it that it was the wish of the Committee to appeal to Peru to make every effort to be present to discuss its report in March 2000, since a change of date would cause great inconvenience.

33. It was so decided.

34. Lord COLVILLE (Chairman/Rapporteur of the Working Group), in response to a question by the Chairperson concerning a note verbale received from the United Kingdom, said the Working Group had already prepared a draft list of issues relating to that country's addendum to its fourth periodic report (CCPR/C/95/Add.10) on Jersey, Guernsey and the Isle of Man when its fifth periodic report had been received. The Working Group had concluded that it should confine itself to issues to be taken up in connection with the fourth report, since the fifth report had not yet been edited or translated.

35. Mr. SOLARI YRIGOYEN felt it would not be appropriate for the Committee to take up only that portion of the fifth report relating to the three islands, since there were many important issues relating to the country as a whole which would need to be considered.

36. Mr. KLEIN said that, in his view, when the Committee came to consider the addendum relating to Jersey, Guernsey and the Isle of Man, any new information concerning them contained in the fifth report ought to be taken

into account. He proposed that the secretariat should be asked to do its best to have the relevant part of the fifth report translated and distributed in time for the March session.

37. Mr. BHAGWATI agreed that the Committee should not consider the portion of the fourth report relating to those Crown Dependencies in isolation from the corresponding portion of the fifth report, since the information contained in the former might be out of date.

38. The CHAIRPERSON said she took it that it was the wish of the Committee to request the secretariat to have the relevant portion of the fifth periodic report of the United Kingdom translated and distributed to members of the Committee for their consideration.

39. It was so decided.

Lists of issues to be taken up in connection with the consideration of reports submitted by States parties under article 40 of the Covenant

Fourth periodic report of Portugal (Macau) (CCPR/C/POR/99/4)

Questions 1 to 15

40. Ms. CHANET noted that Portugal's fourth periodic report on the Territory of Macau did not contain any information under articles 9 or 14.

41. Mr. SOLARI YRIGOYEN (Country Rapporteur) pointed out that question 13 of the recommended list of issues related to article 9 and question 15 to article 14.

42. Ms. EVATT added that question 7, which dealt with the introduction of the Chinese language in Macau courts, also related to the subject matter of article 14.

43. Questions 1 to 15 were adopted.

Questions 16 to 20

44. Mr. YALDEN, noting that article 26 of the Covenant was among those not referred to in the report, wondered whether the Committee in its concluding observations should not point out that, by referring to only five articles, Portugal had failed to follow the Committee's guidelines for the preparation of reports. As to the articles mentioned earlier by Ms. Chanet, he thought that the Committee should inquire into the use of the Chinese language not only in the courts but also in the administration.

45. Mr. SOLARI YRIGOYEN (Country Rapporteur) explained that since the administration of Macau was due to be handed over to China on 19 December 1999, it had been thought appropriate to focus the list of issues primarily on guarantees relating to the transfer of power.

46. Ms. EVATT said that in submitting the fourth periodic report on Macau, the Portuguese Government had prepared what was essentially an update of the third report (CCPR/C/70/Add.9). The two reports should therefore be read in conjunction with one another.

47. The CHAIRPERSON said that members would, of course, be free to raise any additional points, including that of the quality of the report, when asking oral questions.

48. Lord COLVILLE (Chairman/Rapporteur of the Working Group) said that the second sentence of question 20 had been included in that question in error; its proper place was at the end of question 7. He proposed that the texts of those questions should be amended accordingly.

49. Mr. SOLARI YRIGOYEN (Country Rapporteur) agreed.

50. It was so decided.

51. Mr. AMOR said that, while he had no objection to the amendment just adopted, he felt that the Committee should avoid an excessively systematic approach. The list of issues should be viewed as a means of triggering debate, not as an excuse for asking stereotyped questions.

52. The list of issues to be taken up in connection with the fourth periodic report of Portugal (Macau) was adopted.

Initial report of the People's Republic of China on the Hong Kong Special Administrative Region (CCPR/C/67/HKSAR/2)

53. Ms. CHANET pointed out that the acronym "RTKH" in question 13 of the English version should read "RTHK".

54. Mr. AMOR said that while he agreed with the list of issues as a whole, he would recommend reformulation of question 13 to emphasize the need to preserve and guarantee the freedom of the press.

55. The CHAIRPERSON suggested that he might wish to emphasize that point during oral questions to the delegation. She thanked the Working Group for producing the list of issues; as a result of its activity, there had been a vast improvement over the situation in July.

56. The list of issues to be taken up in connection with the initial report of China on the Hong Kong Special Administrative Region was adopted.

GENERAL COMMENTS OF THE COMMITTEE (agenda item 7)

Draft general comment on article 12 of the Covenant

57. The CHAIRPERSON invited the Committee to consider the draft general comment on article 12 of the Covenant, with a view to determining whether there was agreement on the French and Spanish versions reviewed by Ms. Chanet and herself.

58. Ms. CHANET said that although she had made a number of alterations to the French draft, there remained the problem in paragraph 7 of the word "exclusion", which, not having the same connotation in French and English, had been deleted at her suggestion. However, an alternative would need to be found and "marginalization" had been suggested. She wondered whether "exclusión" had been kept in the Spanish version.

59. The CHAIRPERSON said it had.

60. Ms. EVATT observed that "exclusion" could be ambiguous in English, but in the current context it referred to an exclusion zone, forbidding persons in certain categories from entering a particular territory. Linked with "expulsion" it clearly conveyed that idea in English.

61. Lord COLVILLE said that was a very serious point. There was a system in the United Kingdom precisely described as "exclusion" which, although no longer in operation, was still on the Statute Books. It had originated in connection with terrorism in Northern Ireland, when the Executive had issued an order forbidding certain people either from going to Northern Ireland or from entering the rest of the United Kingdom. Exclusion was an essential ingredient and was quite different from both "expulsion" and "displacement". It was a prohibition on freedom of movement within a sovereign country and would not be adequately described by "marginalization". Perhaps with his explanation, Ms. Chanet could find a French equivalent to express the idea?

62. The CHAIRPERSON said that she had overlooked the problem in the Spanish version, which would also have to be amended.

63. Mr. KLEIN, Rapporteur for the draft general comment, thanked Ms. Evatt and Lord Colville for their interpretation of the term "exclusion", which was one form of forced internal displacement and therefore needed to be maintained in the text. He also thanked the Chairperson and Ms. Chanet for their sterling work in producing the Spanish and French texts.

64. Mr. POCAR supported the views expressed by previous speakers. It would perhaps be better to reformulate the sentence in the English text since, strictly speaking, exclusion, unlike expulsion, did not constitute displacement. The concept of exclusion should be dealt with in a separate sentence, and the French and Spanish versions amended accordingly.

65. Mr. YALDEN agreed that expulsion was not a form of internal displacement. The English text as it stood was very unclear and should be amended.

66. The CHAIRPERSON noted that there was no disagreement on the idea contained in the paragraph: it was simply a matter of finding better language in which to express it. She suggested that the paragraph should be reworded by a drafting group, consisting of Mr. Klein, one French-speaking member and one Spanish-speaking member of the Committee.

67. On that understanding, paragraph 7 was adopted.

68. The draft general comment as a whole, as amended, was adopted.

The meeting rose at 12.55 p.m.